
OLR BILL ANALYSIS

sHB 5271

AN ACT CONCERNING THE SITING COUNCIL.

SUMMARY:

This bill requires telecommunications tower developers to begin consulting with potentially affected municipalities 90, rather than 60, days before applying to the Siting Council for a certificate approving the tower's location. It also expands the scope of this consultation.

It prohibits the council from approving a telecommunications tower's installation within 250 feet of a school or commercial child day care center unless (1) the municipality's chief elected official approves the location or (2) the council finds that it will not have a substantial adverse effect on the aesthetics or scenic quality of the school or day care center's neighborhood. The bill specifies that the council's decision must be consistent with federal law and regulations when applying these criteria.

The bill (1) expands the factors the council must consider when approving cable TV or telecommunications towers and equipment and (2) allows the council to request the attorney general to bring a civil suit under certain circumstances.

The bill also (1) adds neighborhood concerns, including public safety, to the factors the council must consider when reviewing power plant applications; (2) allows the council to consider regional location preferences from municipalities neighboring the municipality subject to a siting certification; and (2) modifies how municipalities are reimbursed from the Municipal Participation Account for participating in council proceedings.

EFFECTIVE DATE: Upon passage for the pre-application consultation and municipal participation account provisions, and July

1, 2012 for the remaining provisions.

MUNICIPAL CONSULTATION ON CELL TOWERS

With limited exceptions, current law requires the developer of any facility under the Siting Council's jurisdiction to consult with potentially affected municipalities at least 60 days before filing its application with the council (CGS § 16-50l(e)). These consultations must include any municipality where the developer proposes to locate the facility, or an alternative site, and any adjoining municipalities within 2,500 feet of it. The consultation must include good faith efforts to meet with the municipality's chief elected official. The developer must provide the official with any technical reports concerning the site selection process and the need for, and environmental effects of, the facility. The municipality can hold hearings and, within 60 days of its initial consultation, issue its recommendations to the developer. Within 15 days after submitting its application to the council, the developer must give the council the material it provided to the municipality and a summary of the consultations, including the municipality's recommendations.

In addition to these requirements and procedures, the bill requires developers proposing telecommunications towers to begin consulting with affected municipalities 90 days before filing an application with the council. It requires the technical reports provided to the municipality to also be given to the municipality's planning commission, zoning commission, or combined planning and zoning commission, and inland wetland agency. The reports must include:

1. a map showing the area of need;
2. the location of existing surrounding facilities;
3. a description of the site selection process, including a detailed description of the proposed site, alternate sites being considered, and sites that were considered and rejected;
4. the location of schools near the proposed site, an analysis of the aesthetic impact of the tower on the schools, and a discussion of

measures to be taken to lessen these impacts; and

5. the proposed facility's potential environmental effects.

The bill requires municipalities to provide telecommunications tower developers with alternative sites to consider within 30 days of the initial consultation. The developer must include its evaluation of these alternatives in its application to the council and can present any of them to the council for formal consideration.

The bill allows the municipality to hold public information meetings on the proposed facility within 60 days of the initial consultation. (As discussed above, current law also requires the municipality to issue recommendations to the developer within 60 days of the initial consultation.) If the municipality holds meetings, the bill makes the developer responsible for (1) notifying anyone on record as an owner of property next to a proposed or alternate site and (2) publishing a notice for the meeting in a general circulation newspaper at least 15 days before it.

CABLE TV AND TELECOMMUNICATION TOWER APPROVAL

The bill expands the factors the council must consider when granting a certificate for cable TV or telecommunication towers by requiring it to consider the (1) manufacturer's recommended safety standards for any of the facility's equipment, machinery, or technology and (2) latest design options meant to minimize the facility's aesthetic and environmental impact.

Unless a cable TV or telecommunications tower's proposed location is required due to public safety concerns, the law allows the council to deny a certificate for such a tower if it finds that it would substantially affect the location's scenic quality. The bill expands this authority to include instances where the tower would substantially affect the surrounding neighborhood's scenic quality, as long as public safety concerns do not require the tower to be in its proposed location.

The bill allows the council to request that the attorney general bring a civil action in cases regarding a proposed cable TV or

telecommunications tower, if the council determines that a party or intervenor intentionally omitted or misrepresented a material fact during of a council proceeding, or upon a motion of a party or intervenor. The council must decide to make the request by a majority vote. In the action, the attorney general can seek any legal or equitable relief the Superior Court considers appropriate, including injunctive relief or a civil penalty up to \$10,000 with reasonable attorneys fees and related costs.

MUNICIPAL PARTICIPATION ACCOUNT

By law, applicants initiating a certification proceeding with the Siting Council, except applicants for a cable TV or telecommunications tower, must pay a municipal participation fee, which is deposited into the Municipal Participation Account to reimburse municipalities for their costs of participating in Siting Council proceedings. Current law requires the treasurer to make these payments within 60 days after the council receives a certificate application. The bill instead requires a municipality to apply for reimbursement within 60 days after the certificate proceeding ends. If the reimbursement is less than the participation fee, any money left over from the fee must be refunded to the applicant after all municipalities are paid, rather than at the end of the proceeding, as under current law. The bill instead requires that this occur after the municipality is paid.

The bill also eliminates a requirement for a municipality to refund any money that it received from the account that exceeded the costs it incurred, although by moving the municipality's payment to the proceeding's end, the municipality will presumably know all of its expenses and should not have to estimate its reimbursement. Under existing law, unchanged by the bill, a municipality cannot receive more from the fund than its costs.

COMMITTEE ACTION

Energy and Technology Committee

Joint Favorable Substitute

Yea 21 Nay 0 (03/09/2012)

